

Filed for intro on 02/20/2003
SENATE BILL 996 By
Norris

HOUSE BILL 1356
By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 20; Title 29;
Title 63 and Title 68, relative to civil actions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 20-5-113, is amended by adding the following sentence at the end of the section:

Such suit for damages brought by a survivor pursuant to this section shall not include consortium damages.

SECTION 2. Tennessee Code Annotated, Section 63-2-101(b), is amended by the following as a new, appropriately designated subdivision:

(3) Any privilege of confidentiality of the patient's medical records or a right of privacy regarding a patient's medical condition established herein shall be deemed waived by the patient or patient's authorized representative to the extent that the patient places such patient's medical condition, care, treatment at issue by making a claim for personal injuries in any civil proceeding.

SECTION 3. Tennessee Code Annotated, Section 68-11-1502, is amended by adding the following sentence at the end of the section:

Any privilege of confidentiality of the patient's medical records or a right of privacy regarding a patient's medical condition established herein shall be deemed waived by the patient or patient's authorized representative to the extent that the patient places such patient's medical condition, care, treatment at issue by making claim for personal injuries in any civil proceeding.

SECTION 4. Tennessee Code Annotated, Title 29, Chapter 26, Part 1, is amended by adding the following as a new section:

29-26-1__.

(a) In any malpractice action, the plaintiff shall be required to file with the complaint an affidavit of an expert competent to testify under this part. The affidavit required herein shall set forth the negligent acts or omissions claimed to exist and the factual basis for each such claim.

(b) The contemporaneous filing requirement of subsection (a) shall not apply to any case in which the period of limitation will expire or there is a good faith basis to believe it will expire on any claim stated in the complaint within ten (10) days of the date of filing and, because of such time constraints, the plaintiff alleges that an affidavit of an expert was not readily available. In such cases, the plaintiff must file the required affidavit within forty-five (45) days of the filing of the complaint. If an affidavit is not filed within the period specified in this subsection or as extended by the trial court, the complaint is subject to dismissal for failure to state a claim.

(c) If a plaintiff files an affidavit which is defective, the plaintiff's complaint is subject to dismissal for failure to state a claim; notwithstanding the preceding, the plaintiff may cure the defect by filing an amended affidavit within thirty (30) days of service of a motion alleging that the affidavit is defective.

SECTION 5. This act shall take effect July 1, 2003, the public welfare requiring it.

